

PLANNED DEVELOPMENT PERMIT

FILE NO. PD15-002

LOCATION OF PROPERTY West side of Great Oaks Boulevard,
approximately 1,000 feet northwesterly of
Highway 85

ZONING DISTRICT A(PD) Planned Development

GENERAL PLAN DESIGNATION Combined Industrial/Commercial

PROPOSED USE Planned Development Permit to allow the
demolition of 10 existing structures totaling
15,637 square feet, removal of 17 ordinance-
size trees, construction of a 148,000-square
foot retail building with off-sale of alcohol
(Costco), a 4,032-square foot fueling canopy
with 20 fueling pumps, and associated
landscaping and parking improvements on a
15.2-gross acre site

ENVIRONMENTAL STATUS Great Oaks Mixed Use Project
Environmental Impact Report, Resolution
No. 77219.

OWNER/ADDRESS iStar San Jose, LLC
One Sansome Street, 30th Floor
San Francisco, California 94104

APPLICANT/ADDRESS Costco Wholesale
9 Corporate Park, Suite 230
Irvine, California 92606

FACTS

The Director of Planning, Building, and Code Enforcement determines, concludes, and finds as follows for this proposed project:

1. **Project Description.** This Planned Development Permit allows:
 - a. the demolition of 10 existing structures totaling 15,637 square feet and which were accessory to the former agricultural use of subject property, with the retention of a historic dehydrating shed,
 - b. the removal of 17 ordinance-size trees,
 - c. the construction of a 148,000-square foot building with access provided from one driveway on Great Oaks Boulevard, one driveway on Raleigh Road, and two driveways on Coronado Avenue,

- d. the use of the 148,000-square foot building as a Large Format Commercial Establishment, which includes the off-sale of alcohol,
 - e. the construction of a gas station with a 4,032-square foot fueling canopy with 20 fueling pumps, and
 - f. attached signage for the main building (six signs) and fueling canopy (four signs)
 - g. the associated site improvements that include landscaping, LED site lighting, and parking lot areas.
2. **Site Description.** The majority of the 15.2-gross acre site is currently undeveloped. The existing buildings on site include dehydrating shed which is a candidate City Landmark, and accessory structure thereto. The project site is adjacent to the existing HGST campus (former Hitachi campus), police substation to the west and Equinix data center to the east. The Santa Teresa Light Rail Station is located approximately 0.50 miles from the project site, while the Blossom Hill Caltrain Station is located approximately one mile from the project site.
3. **General Plan.** The subject site has a designation of Combined Industrial/Commercial on the adopted Envision San Jose 2040 General Plan Land Use/Transportation Diagram. This designation allows a significant amount of flexibility for the development of a varied mixture of compatible commercial and industrial uses. Properties with this designation are intended for commercial, office, or industrial developments or a compatible mix of these uses.
4. **Zoning District.** The project site is part of the iStar Great Oaks Mixed Use Project Planned Development (PD) Zoning File No. PDC12-028 (Ordinance No. 29512), which was adopted on December 2, 2014 and allows the development of up to 720 residential units; 154,000 square feet of commercial uses; and 260,000 square feet of office and/or commercial uses. The subject site is within Area 1 of the PD Zoning, which allows up to 154,000 square feet of commercial development, including large format commercial establishments. The development standards applicable to the project are as follows:
- a. **Land use.** Large format commercial establishments are a permitted use.
 - b. **Parking.** Parking for large format commercial establishment is required at a rate of one parking space per 200 square feet of floor area. Based on 148,000 square feet of gross floor area, 629 parking spaces are required. The project proposes 773 parking spaces.
 - c. **Setbacks.** Consistent with the 30-foot setback minimum from Raleigh Road and Great Oaks Parkway, the project proposed a 30-foot setback from Great Oaks Parkway and a 67-foot setback from Raleigh Road.
 - d. **Height.** The maximum height per the PD Zoning is 65 feet. The proposed building is 34' at its tallest point, while the fueling canopy is a maximum of 17 feet 6 inches.
5. **CEQA.** The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, stormwater runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties. An Environmental Impact Report, "Great Oaks Mixed Use Project Environmental Impact Report," was prepared for this project and certified on November 18, 2014, pursuant to the provisions of CEQA (Resolution No. 77219). An Addendum to the EIR analyzing the addition of four pump stations to the previously analyzed gasoline service station was completed for the project. The addition of the pumps was found to have a negligible affect on the environment.

FINDINGS

After investigation and hearing held pursuant to Chapter 13.32 of the San José Municipal Code, the Director of Planning finds:

1. That the trees are in such a location in such surroundings, that their removal would not significantly frustrate the purposes of Chapter 13.32; and
2. That the location of the trees with respect to the proposed improvement unreasonably restricts the economic development of the parcel in question.

Further, the Director of Planning, Building, and Code Enforcement concludes and finds, based on the analysis of the above facts, that under the provisions of Section 20.80.440(A) of the San José Municipal Code, no demolition permit or removal permit shall be issued unless and until a Development Permit which specifically approves such demolition or removal has been issued and has become effective pursuant to the provisions of Chapter 20.100.

1. The Director of Planning has considered the following in evaluating the proposed demolition:
 - a. The failure to approve the permit would result in the creation of continued existence of a nuisance, blight or dangerous condition.
 - b. The failure to approve the permit would jeopardize public health, safety or welfare.
 - c. Both inventoried and non-inventoried buildings, sites and districts of historical significance will not be negatively impacted.
 - d. The approval of the demolition of the building would maintain the supply of existing housing stock in the City;
 - e. Rehabilitation or reuse of the existing building would not be feasible; and
 - f. The approval of the demolition of the building should facilitate a project that is compatible with the surrounding neighborhood.

Finally, the Director of Planning, Building, and Code Enforcement determines, concludes, and finds as follows for this proposed project:

1. The Planned Development Permit, as issued, furthers the policies of the General Plan in that the Combined Industrial/Commercial designation supports a mix of industrial and commercial uses. The subject permit would allow the development of a large format commercial establishment, including an incidental gasoline service station.
2. The Planned Development Permit, as issued, conforms in all respects to the Planned Development Zoning of the property, in that it adheres to the allowed land uses and meets minimum development standards in terms of setbacks, height and parking requirements as listed in the aforementioned Facts,
3. The interrelationship between the orientation, location, mass and scale of building volumes, and elevations of proposed buildings, structures and other uses on-site are appropriate, compatible and aesthetically harmonious in that the building mass and bulk is offset through changes of plane, materials, and colors. Rooftop equipment is enclosed and integrated into building form.
4. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, stormwater runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties. An Environmental Impact Report, "Great Oaks Mixed Use Project Environmental Impact Report," was prepared for this project and certified

on November 18, 2014, pursuant to the provisions of CEQA (Resolution No. 77219). An Addendum to the EIR analyzing the addition of four pump stations to the previously analyzed gasoline service station was completed for the project. The addition of the pumps was found to have a negligible affect on the environment.

In accordance with the findings set forth above, a Planned Development Permit for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **approved**. The Director of Planning, Building, and Code Enforcement expressly declares that it would not have granted this Permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
 - a. Acceptance of the Permit by the applicant; and
 - b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Permit shall automatically expire four years from and after the date of issuance hereof by said Director, if within such time period, a Building Permit has not been obtained or the use, if no Building Permit is required, has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this permit shall be deemed acceptance of all conditions specified in this permit and the applicant's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the "Building Code" shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San Jose Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
4. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.

5. **Conformance to Plans.** The development of the site shall conform to the approved Planned Development Permit plans entitled, "Costco Wholesale Great Oaks Site San Jose, CA" dated May 22, 2015 on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 24), with the exception of any subsequently approved changes.
6. **Conformance with Approved Zoning.** All conditions of approval and required environmental mitigation measures from the previously approved Planned Development Zoning remain in effect.
7. **Conformance to Other Permits.** Unless specifically modified with this permit, this project shall conform to all of the requirements of previous permit(s) including: PD14-023.
8. **Off-Sale of Alcoholic Beverages.** This permit authorizes the off-sale of alcoholic beverages at the proposed large format commercial establishment and successors of said tenant spaces whereby the subsequent tenant maintains a similar use as deemed by the Director of Planning.
9. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
10. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. The Permit shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance, as defined above.
11. **Revocation.** This Permit is subject to revocation for violation of any of its provisions or conditions.
12. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San Jose Municipal Code.
13. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. Trash areas shall be maintained in a manner to discourage illegal dumping.
14. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the approved plan set.
15. **Utilities.** All new on-site telephone, electrical, and other overhead service facilities shall be placed underground.
16. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement, including job sites for projects under construction.
17. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts and garbage.
18. **Sign Design.** Sign design and location, as delineated on the approved plan set are hereby approved and constitute the project's entire sign program.
19. **Building and Property Maintenance.** The property owner or management company shall maintain the property in good visual and functional condition. This shall include, but not be limited to all exterior elements of the buildings such as paint, roof, paving, signs, lighting and landscaping.

20. **Lighting.** All new on-site, exterior, unroofed lighting shall conform to the City's Outdoor Lighting Policy and shall use fully cut-off and fully shielded, low-pressure sodium fixtures unless otherwise approved with this project. Lighting shall be designed, controlled and maintained so that no light source is visible from outside of the property.
21. **Perimeter Fencing.** Fence height and materials shall be provided as shown on the approved plans. Changes to the approved fencing shall require review by the Director of Planning, Building, and Code Enforcement.
22. **Colors and Materials.** All building colors and materials are to be those specified on the Approved Plan Set.
23. **Generators.** This permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators shall secure appropriate permits and shall conform to the regulations of Title 20 of the Municipal Code.
24. **Green Building Requirements for Tier 2 Non Residential Development (≥25,000 square feet).** This development is subject to the City's Green Building Ordinance for Private Sector New Construction. Prior to the issuance of any shell or complete building permits issued on or after September 8, 2009 for the construction of buildings approved through the scope of this permit, the applicant shall pay a Green Building Refundable Deposit in the amount of \$40,000 applicable to the gross square footage of said buildings which are approved through this permit. The project must receive the minimum green building certification of LEED Silver. The request for refund of the Green Building Deposit together with green building certification evidence demonstrating the achievement of the green building standards indicated above shall be submitted within a year after the building permit expires or becomes final, unless a request for an extension is submitted to the Director of Planning, Building, and Code Enforcement in accordance with Section 17.84.305D of the Municipal Code.
25. **Reclaimed Water.** The project shall conform to Chapter 15.10 and 15.11 of the San José Municipal Code. The Code addresses the use of reclaimed water including the requirement that an irrigation system be designed to allow for the current and future use of reclaimed water for all landscaped cumulative areas in excess of ten thousand (10,000) square feet.
26. **Window Glazing.** Unless otherwise indicated on the approved plan, all windows shall consist of a transparent glass.
27. **Tree Replacements.** 17 trees are proposed to replace those removed as part of this proposal. In accordance with the City's standard replacement ratio, 108 trees are required as replacements on the site. 208 trees shall be planted as mitigation.
28. **Permit Posting.** Prior to commencement of and during removal of any ordinance-size tree pursuant to this Permit, the applicant shall post on the site, or cause to be posted, a copy of this validated Permit in conformance with the following:
 - a. The copy of the Permit shall be a minimum size of 8.5 by 11.0 inches; shall be posted at each public street frontage within 2 feet of the public sidewalk or right-of-way; and shall be posted in such a manner that the Permit is readable from the public sidewalk or right-of-way; or
 - b. If the site does not have a public street frontage, a copy of the Permit shall be posted at a location where the Permit is readable from a common access driveway or roadway.

29. **Presentation of Permit.** During removal of any ordinance-size tree pursuant to this Permit, the applicant shall maintain the validated Permit on the site and present it immediately upon request by the Director of Planning, Building and Code Enforcement, Police Officers or their designee.
30. **Demolition.** This permit allows the demolition of structures as noted on the approved Plans.
31. **Landscaping.** Planting and irrigation are to be provided, as indicated, on the final Approved Plan Set. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be installed in accordance with Part 3 of Chapter 15.11 of Title 15 of the San José Municipal Code, Water Efficient landscape Standards for New and Rehabilitated Landscaping.
32. **Irrigation Standards.** The applicant shall install an adequately sized irrigation distribution system with automatic controllers in all areas to be landscaped that conforms to the Zonal Irrigation Plan in the Approved Plan Set. The design of the system shall be approved and stamped by a California Registered Landscape Architect.
33. **Certification.** Pursuant to San José Municipal Code, Section 15.10.486, certificates of substantial completion for landscape and irrigation installation shall be completed by licensed or certified professionals and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.
34. **Conformance to MMRP.** This project shall conform to all applicable requirements of the Mitigation Monitoring and Reporting Program approved for this development.
- a. Transportation (Director of the Department of Planning, Building and Code Enforcement (PBCE)).
- i. MM TRAN-1.1 – Prior to issuance of building permits, the Project proponent shall make a fair-share contribution towards the planned Edenvale Area Development Policy improvements at US 101 and Blossom Hill Road (West), which include adding a third right-turn lane to the southbound US 101 off-ramp, adding a third eastbound through lane on Blossom Hill Road, adding a third westbound through lane on Blossom Hill Road, and updating pedestrian and bicycle facilities in conformance with the General Plan. These improvements will mitigate the Project's impact at US 101 and Blossom Hill Road (West) to a less than significant level. The improvements will require widening the Blossom Hill Road overpass and would improve the intersection level of service from LOS F to LOS B and therefore will mitigate the Project's impact at US 101 and Blossom Hill Road (West) to a less than significant level. However, because the improvements will not be constructed concurrently with the Project, the impacts are considered significant and unavoidable although temporary.
- ii. MM TRAN-2.1 – The Project shall add and construct a second northbound left-turn lane on San Ignacio Avenue to mitigate its impact at the intersection of San Ignacio Avenue and Great Oaks Boulevard to a less than significant level. This improvement, which can be constructed within the existing right-of-way on San Ignacio Avenue, will restore the level of service at the intersection to an acceptable LOS D. Adding a second northbound left-turn lane will require center median and signal modifications and restriping. If existing trees in the median are required to be removed, the Project shall plant replacement trees to mitigate their removal. No significant environmental impacts are anticipated from the construction of this improvement.

- iii. MM TRAN-3.1 – The Project shall add and construct a second southbound left-turn lane on Santa Teresa Boulevard to mitigate its impact at the intersection of Santa Teresa Boulevard and Bernal Road to a less than significant level. This improvement, which can be constructed within the existing right-of-way on Santa Teresa Boulevard, will restore the level of service at the intersection to an acceptable LOS D. Adding a second southbound left-turn lane will require median right-turn island and signal modifications and restriping. Since the improvements would be accommodated within the existing right-of-way, no significant environmental impacts are anticipated from the construction of this improvement. If existing trees in the median are required to be removed, the Project shall plant replacement trees to mitigate their removal.
- iv. MM-TRAN-4.1 – The Project proponent shall develop and implement a Transportation Demand Management (TDM) program for the commercial and office uses on-site. The TDM program is subject to review and approval by the Director of Planning, Building and Code Enforcement (PBCE) at the Planned Development permit stage and shall include, at a minimum, the following measures:
 - 1) Work with Valley Transportation Authority (VTA) on opportunities for transit improvements to encourage ridership such as:
 - a) Improving existing or constructing new bus pullouts and transit stops along 55Project frontages. Bus stops may include shelter, benches, and postings of transit information;
 - b) Providing bike lanes along Project frontages;
 - c) Constructing public sidewalks along all public frontages and planting street trees; and
 - d) Enhancing pedestrian improvements where applicable.
 - 2) Provide bicycle amenities such as bicycle parking for employees and multi-family residents along with bike lane connections to existing facilities in the vicinity (e.g., existing bicycle lane on Raleigh Road west of the Project site).
 - 3) Provide on-site shower and locker room facilities for office employee use.
 - 4) Provide pedestrian signage and signalization where appropriate.
- b. Noise (Director of PBCE).
 - i. MM NOI-2.3 – Special building techniques (e.g., sound-rated windows and building façade treatments) may be required to maintain interior noise levels at or below acceptable levels. These treatments include, but are not limited to, sound rated windows and doors, sound rated wall constructions, acoustical caulking, protected ventilation openings, etc. Preliminary calculations indicate that residential units nearest SR 85 and with direct line of sight to the roadway would require sound rated windows and doors with ratings ranging from STC 35-40 to assure that the 45 dBA DNL indoor standards is met.
 - ii. MM NOI-3.1 – The Project proponent shall conduct a pre-project crack survey of the existing fruit dehydrator building to document existing conditions. Ground vibration levels outside the dehydrator building shall be monitored during demolition and construction activities when heavy equipment capable of producing high vibration levels such as vibratory rollers operate within 60 feet of the dehydrator building to confirm vibration levels are below the allowable level of 0.08 in/sec PPV. If vibration levels exceed the allowable level, the construction activity causing the excess

- vibration shall stop and a post-construction crack survey shall be completed and any cosmetic damage resulting from the Project shall be repaired.
- c. Air Quality (Director of PBCE).
- i. AM-2.1: To reduce the Project's toxic air contaminants emissions:
- 1) The Project proponent shall minimize the idling time of diesel-powered construction equipment.
 - 2) Off-road construction equipment (more than 50 horsepower) shall achieve a Project fleet average of 20 percent NOx reduction and 45 percent PM10 reduction compared to the most recent California Air Resources Board (CARB) State Wide Fleet Average. Comparison of Project fleet average to the State Wide Fleet Average shall be calculated using the Sacramento Metropolitan Air Quality Management District's Construction Mitigation Calculator or equivalent mitigation calculator with the latest State Wide Fleet Average data provided by the CARB.
 - 3) All construction equipment, diesel trucks, and generators shall be equipped with Best Available Control Technology (BACT) for emission reductions of NOx and PM10.
 - 4) Construction equipment shall meet CARB's most recent certification standard for off-road heavy duty diesel engines.
- d. Biological Resources (Director of PBCE).
- i. MM BIO-1.4 – The Project proponent shall include the following tree protection measures in the Project plans, contracts, and documents in order to protect trees to be retained during construction:
- 1) Design Applications:
 - a) Design efforts shall focus on preserving trees on-site identified as having preservation suitability, per the 2008 and 2013 HortScience tree surveys and as updated in the tree survey completed under MM BIO-1.1. The 2008 report identified trees #164-200 located along the southern boundary of the site for preservation and the 2013 report identified trees #6, 44-46, 49, 51-55, 57-59, 61, 62, 67-69, 70-74, 77-82, 87, 89, 93-96, 99, and 100 for preservation.
 - b) The vertical and horizontal elevations of trees to be preserved shall be plotted on all plans.
 - c) A Tree Protection Zone (TPZ) shall be established around each tree to be preserved. For design purposes, the TPZ shall be the edge of the dripline.
 - d) Underground services including utilities, sub-drains, water or sewer shall be routed outside the TPZ.
 - e) Any herbicides placed under paving materials must be safe for use around trees and labeled for that use.
 - f) Irrigation systems shall be designed so that no trenching occurs within the TPZ.
 - 2) Pre-construction and Demolition Treatments:

- a) The Project proponent shall retain a certified consulting arborist. The construction superintendent shall meet with the consulting arborist before beginning work to discuss work procedures and tree protection.
 - b) All trees to be preserved shall be fenced to completely enclose the TPZ prior to demolition, grubbing, or grading. Fences shall be 6-foot chain link or equivalent as approved by the consulting arborist.
 - c) Trees to be preserved may require pruning to clean the crown of dead, dying, diseased, and otherwise structurally unsound limbs as well as to provide clearance for construction. All pruning shall be completed by an ISA Certified Arborist or Tree Worker and adhere to the most recent edition of the American National Standard Institute's A300 and Z133 publications and the Best Management Practices for Pruning of the International Society of Arboriculture.
 - d) The Project proponent shall ensure that the irrigation system within the TPZ is intact and operational.
- 3) Tree Protection During Construction:
- a) Prior to beginning work, contractors working in the vicinity of trees to be preserved shall meet with the consulting arborist at the site to review all work procedures, access routes, storage areas, and tree protection measures.
 - b) Any grading, construction, demolition or other work that is expected to encounter tree roots shall be monitored by the consulting arborist.
 - c) If injury should occur to any tree during construction, it shall be evaluated as soon as possible by the consulting arborist so that appropriate treatments can be applied.
 - d) Fences shall be erected to protect trees to be preserved. Fences define a specific TPZ for each tree or group of trees. Fences are to remain until all site work has been completed. Fences may not be relocated or removed without permission of the consulting arborist.
 - e) Construction trailers, traffic, and storage areas shall remain outside fenced areas at all times.
 - f) Prior to grading, Project proponent and consulting arborist shall evaluate the area outside the TPZ for pad preparation, excavation for foundations/footings/walls, trenching, and root pruning. Roots shall be cut by manually digging a trench and cutting exposed roots with a saw, vibrating knife, rock saw, narrow trencher with sharp blades, or other approved root pruning equipment. The consulting arborist shall identify where root pruning is required.
 - g) All underground utilities drain lines or irrigation lines shall be routed outside the TPZ. If lines must traverse through the protection area, they shall be tunneled or bored under the tree as directed by the consulting arborist.
 - h) No materials, equipment, spoil, waste or wash-out water shall be deposited, stored, or parked within the TPZ (fenced area).

- i) Any additional tree pruning needed for clearance during construction shall be performed by a qualified arborist and not by construction personnel.
- ii. MM BIO-2.1 – The Project proponent shall implement one of the following two measures to reduce impacts to nesting birds and raptors to a less than significant level:
 - 1) Avoidance. Construction shall be scheduled to avoid the nesting season to the extent feasible. In the South San Francisco Bay area, most raptors breed from January through August. If construction can be scheduled to occur between September and December, the nesting season would be avoided, and no impacts to nesting birds/raptors would be expected.
 - 2) Preconstruction/Pre-disturbance Surveys. If it is not feasible to schedule construction between September and December, preconstruction surveys for nesting raptors shall be conducted by a qualified ornithologist to ensure that no active nests will be disturbed or destroyed during Project implementation. Preconstruction surveys for nesting birds/raptors shall be conducted no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (January through April) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May through August).

During this survey, the ornithologist shall inspect the ground in open fields, as well as all trees in and immediately adjacent to the impact areas for nesting birds and raptor. If an active nest is found close enough to the construction area to be disturbed by these activities, the ornithologist, in consultation with CDFG, shall determine the extent of a construction-free buffer zone (typically 250 feet) to be established around the nest.

- iii. MM BIO-2.2 – Inhibit Nesting. If vegetation is to be removed by the Project, and all necessary approvals have been obtained, potential nesting substrate (e.g., bushes, trees, grass, burrows) that will be removed by the Project shall be removed before the start of the nesting season (January) to help preclude nesting. Removal of vegetation or structures by the Project shall be completed outside of the nesting season, which extends from January through August.
- iv. MM BIO-2.3 – A final report on nesting birds and raptors, including any protection measures, shall be submitted to the City's Environmental Principal Planner, and be completed to the satisfaction of the Director of PBCE prior to start of grading.
- v. MM BIO-3.1 – Construction activities involving potential roost sites shall be conducted after the maternity roost season. The maternity roost season begins as early as March 1 and continues to July 31, when the young are volant (fly off on their own).
- vi. MM BIO-3.2 – Pre-demolition and pre-construction surveys for roosting bats shall be conducted by a qualified bat biologist after the maternity season and before the wet season (i.e., between August 15 and October 15) and no more than 14 days prior to any removal of buildings or removal of trees greater than 12 inches in diameter. No activities that would result in disturbance to active roosts shall proceed prior to the completed surveys. If no active roosts are found, then no further action shall be warranted. If a maternity roost is present, a qualified bat biologist shall determine the extent of construction-free zones around active nurseries located during surveys.

- California Department of Fish and Wildlife (CDFW) shall also be notified of any active nurseries within the construction zone. Initial surveys can be conducted any time prior to the pre-demolition surveys to establish if a particular location has supported, or supports, roosting bats. A survey for indications of nursery roosts would be conducted prior to March 1. If indications of a maternity roost are present, the structure cannot be removed or modified before a maternity roost becomes reestablished.
- vii. MM BIO-3.3 – If indications of a maternity roost are present, bats can be excluded from the building or tree after July 31 and before March 1 to prevent the formation of maternity colonies. Such non-breeding bats can be safely evicted, under the direction of a qualified bat biologist, by sealing crevices and providing one-way exclusion doors at the roost area. Such a device would be employed in all expansion joints during dark hours as a temporary device to prevent the formation of a maternity colony. In order not to exclude all potential maternity roost habitat at once, only one half of the expansion joints would be sealed at any one time during the maternity colony-nesting season. This action would allow bats to leave during dark hours, thus increasing their chance of finding new roosts with a minimum of potential predation during daylight.
 - viii. MM BIO-3.4 – A final report of pallid bats, including any protection measures, shall be submitted to the Director of PBCE prior to start of grading.
- e. Cultural Resources (Director of PBCE).
- i. MM CUL-1.1 – The Project proponent shall have a qualified archaeologist present on the site to monitor subsurface construction excavation activities into native soils during future development on the site. The frequency and duration of the monitoring shall be at the discretion of the archaeologist and dependent on his/her subsurface observations during construction operations.
 - ii. MM CUL-1.2 – Construction personnel involved in the site clearing and subsequent grading and trenching shall be warned that there is a potential for the discovery of archaeological materials. Indicators of archaeological site deposits include, but are not limited to, the following: darker than surrounding soils, evidence of fire (ash, fire altered rock and earth, carbon flecks), concentrations of stone, bone and shellfish, artifacts of these materials and burials, either animal or human.
 - iii. MM CUL-1.3 – In the event any unanticipated prehistoric or significant historic era cultural materials are exposed during construction, all grading and/or excavation operations within 50 feet of the find shall be halted, the Director of PBCE shall be notified, and a qualified professional archaeologist shall examine the find and make appropriate recommendations regarding the significance of the find and the appropriate mitigation. The recommendation(s) shall be submitted to the Director of PBCE for review and concurrence and then implemented. The recommendations could include collection, recordation, and analysis of any significant cultural materials.
 - iv. MM CUL-1.4 – In the event that human remains and/or cultural materials are found, all Project-related construction shall cease within a 50-foot radius of the find in order to proceed with the testing and mitigation measures required. Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California:

- 1) In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.
 - 2) MM CUL-1.5 – A final archeologist report shall be submitted to the Division Manager of the Environmental Review section of PBCE. This report shall contain a description of the mitigation program that was implemented and its results, including a description of the monitoring and testing program, a list of the resources found, a summary of the resources analysis methodology and conclusion, and a description of the disposition/curation of the resources. The report shall verify completion of the mitigation program to the satisfaction of the Director of PBCE.
- f. Hazardous Materials (Director of PBCE).
- i. MM HAZ-1.1 – Prior to issuance of any Planned Development Permit, a soil management plan (SMP) shall be developed that identifies management practices for characterizing the stockpiled soil and handling buried structures, wells, burn areas, debris, areas near former and existing structures on-site, or impacted soil that may be encountered during site development activities. Characterization of the soil shall be achieved by conducting soil sampling under regulatory oversight and in accordance with applicable regulatory guidance. If, after characterizing the stockpiled soil (or other impacted soil encountered on-site), concentrations of chemicals (including pesticides and lead) are found above California Human Health Screening Levels (CHHSLs) for residential uses or other clean up level approved by a regulatory oversight agency, remedial measures are required. Possible remedial measures include: 1) excavation and off-site disposal of the impacted soil at a permitted facility; 2) use of engineering and administrative controls such as consolidation and capping of the soil on-site and land use covenants restricting certain activities/uses; and 3) a combination of the above. The Project shall obtain regulatory agency oversight and approval of the remedial measure(s) prior to site development. Final approval that the site is suitable for the proposed development shall be issued by the regulatory agency and copied to the City of San José prior to issuance of grading or demolition permits for Project construction. Grading permits shall not be issued and construction activities associated with the Project shall not commence prior to completion of the actions described in this MM HAZ-1.1.
 - ii. MM HAZ-2.1 – At the Planned Development permit phase and prior to the building permit issuance, the Project proponent shall have a qualified hazardous materials consultant complete additional soil sampling as needed to define the specific areas of arsenic contamination on-site and evaluate human health risks associated with it. Sampling shall be conducted under regulatory oversight and in accordance with applicable regulatory guidance.

- 1) Prior to site development, remedial measures required to reduce human health risks to future site occupants resulting from exposure to concentrations of arsenic above background levels shall be implemented by the Project proponent in order to reduce exposure to arsenic concentrations to acceptable levels as approved by the regulatory oversight agency. Possible remedial measures include: 1) excavation and off-site disposal of the impacted soil at a permitted facility; 2) use of engineering and administrative controls such as consolidation and capping of the soil on-site and land use covenants restricting certain activities/uses; and 3) a combination of the above. The corrective action shall be approved by the appropriate regulatory agency and also incorporate measures to reduce exposure to construction/maintenance workers, future residents, and future park users as necessary. Any cleanup and/or remediation of the site shall be performed in such a manner as to meet all federal, state, and local regulations. Final approval that the site is suitable for the proposed development shall be issued by the regulatory agency and copied to the City of San José prior to issuance of grading or demolition permits for Project construction. Grading permits shall not be issued and construction activities associated with the Project shall not commence prior to completion of the actions described in this MM HAZ-2.1.
 - iii. MM HAZ-2.2 – A site management plan and/or health and safety plan shall be prepared by a qualified hazardous materials consultant prior to issuance of a Planned Development permit to address potential exposures to elevated concentrations of arsenic and other contaminants found on-site during construction activities within the area of the former agricultural buildings and elsewhere on-site. Such plans include the use of best management practices to reduce potential exposures, such as dust suppression measures, during earth-moving activities.
 - g. Cumulative Impacts (Director of PBCE).
 - i. MM C-TRAN-1.1 – Prior to issuance of building permits, the Project proponent shall make a fair-share contribution towards the improvement that will add a second northbound left-turn lane on Monterey Road. This improvement would restore the level of service at the intersection of Monterey Road and Chynoweth Avenue to LOS E with an average vehicle delay that is better than that calculated under background conditions. This improvement could be constructed within the existing right-of-way on Monterey Road and would require center median reconstruction, removal of four trees, signal modification, and restriping. Based on the City of San José standards, these improvements would satisfactorily mitigate the significant cumulative impact.
 - ii. MM C-BIO-1.1 – The Project proponent shall comply with the Santa Clara Valley Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP) and pay the applicable nitrogen deposition fee based on the number of new vehicle trips prior to issuance of grading and demolition permits.
- 35. Building Division Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
- a. *Construction Plans.* This permit file number, PD15-002, shall be printed on all construction plans submitted to the Building Division.
 - b. *Americans with Disabilities Act.* The applicant shall provide appropriate access as required by the Americans with Disabilities Act (ADA).

- c. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.
36. **Recycling.** Scrap construction and demolition material shall be recycled. Integrated Waste Management staff at (408) 535-8550 can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.
37. **Fire Flow.** Required fire flow for the site is calculated using CFC Appendix B, or as otherwise approved in writing by the Fire Chief. A 50% reduction in required fire flow may be authorized for sprinklered buildings containing light hazard occupancies. A 25% reduction in required fire flow may be authorized for sprinklered buildings containing ordinary hazard occupancies. No reduction is provided for unsprinklered or extra hazard occupancy buildings.
38. **Fire Hydrants.** Public (off-site) and private (on-site) fire hydrants shall be provided as approved and at the exact location specified by the Fire Protection Engineering Section of the Fire Department to the satisfaction of the Fire Chief. The number and distribution of fire hydrants shall be based on CFC Table C105.1 (no reduction allowed for fire flow requirement).
39. **Fire Hydrants and Driveways.** All fire hydrants shall be installed at least 10 feet from all driveways, with final locations satisfactory to the Fire Chief.
40. **Fire Lanes.** Fire lanes, suitably designated "FIRE LANE-NO PARKING," shall be provided as required by the Fire Department.
41. **Fire Department Connections.** All fire department connections shall be located within 100 feet from a standard public fire hydrant. All alternate means of protections shall be reviewed by the Fire Department. The public fire hydrant(s) shall be located on the same frontage as all fire service connections.
42. **Fire Department Connections.** Fire sprinkler and standpipe fire department connections (FDC) serving the same building shall be located directly adjacent to each other. Buildings in excess of 200 feet long and or having frontage on multiple streets shall have multiple FDCs. The Locations shall be approved during plan check by the San José Fire Department and shall be depicted on the riser key plan(s).
43. **Access Roads.** Approved access road(s) and hydrant(s) shall be provided once wood framing is available at site or provide an alternate means of water suppression subject to the approval of the Fire Department. Obtain permit and pay applicable fees prior to the installation. Contact the San José Fire Department's Fire Protection Systems Section at (408) 277-8756.
44. **Lock Boxes.** The project development shall provide lock boxes to the satisfaction of the Chief Building Official and Fire Chief.
45. **Emergency Vehicle Access.** Width, length, and grade of the fire apparatus access roads, streets, and avenues shall be identified on project plans and submitted to the Fire Chief for approval. Every portion of all building exterior walls shall be within 150 feet of an access road. To the satisfaction of the Fire Chief, the fire access shall include the following:
- a. An approved all weather surface;

- b. Access road(s) that are at least 20 feet wide and have a minimum 13-foot 6-inch vertical clearance;
 - c. Load bearing designs that are maintained to support the loads of fire apparatus of at least 75,000 pounds;
 - d. Maintain a minimum inside turning radius of 30 feet and an outside turning radius of 50 feet;
 - e. Access roads designed with approved provisions for the turning around of fire apparatus if it has dead ends and is in excess of 150 feet;
 - f. Maximum grade of 15%;
 - g. A second point of access shall be required when a fire apparatus road exceeds 1,000 feet;
 - h. Curbs shall required to be painted red and marked as “Fire Lane - No Parking” under the following conditions: (show exact locations on plan)
 - i. Roads, streets, avenues, and all other roadway designations that are 20 feet to less than 26 feet wide measured from face-of-curb to face-of-curb shall have curbs on both sides of the road painted and marked
 - ii. Roads, streets, avenues, and all other roadway designations that are 26 feet to less than 32 feet wide measured from face-of-curb to face-of-curb shall have one curb painted and marked
46. **DRAFT Public Works Clearance.** A Development Clearance shall be obtained from the Public Works Department, and is subject to the following requirements to the satisfaction of the Director of Public Works:
- a. **Minor Improvement Permit:** The public improvements conditioned as part of this permit require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. The Minor Improvement Permit includes privately engineered plans, insurance, surety deposit, and engineering and inspection fees.
 - b. **Transportation:**
 - i. As part of the environmental review process for this project a traffic impact analysis (TIA) was prepared by Hexagon Transportation Consultants, Inc. dated January 3, 2014. This project proposes to amend the Edenvale Area Development Policy (EADP) to include this development as part of the policy area. The purpose of the EADP is to create a mitigation plan for impacts occurring at regional transportation facilities that could not be mitigated by a single project. The EADP funds reconstruction of US101/Blossom Hill Road/Silver Creek Valley Road interchange.
 - ii. The results of the intersection level of service analysis show that, measured against the City of San Jose level of service impact criteria, the intersections of US101/Blossom Hill Road (West), San Ignacio Avenue/Great Oaks Boulevard, and Santa Teresa Boulevard/Bernal Road would be significantly impacted by the project. The project-generated impacts and proposed improvements to mitigate the impacts are described below.
 - 1) **US101/Blossom Hill Road/Silver Creek Valley Road Interchange** - Developer shall contribute SIX MILLION DOLLARS (\$6,000,000.00) toward the costs of the Blossom Hill Road Bridge widening (4 lanes to 7 lanes) including construction of bridge structure Highway 101 between existing bridge decks.

Per the TIA this project will be conditioned to pay the traffic impact fee in three (3) residential phases as shown in “CHART A” below.

Contributions shall be made prior to the issuance of the first building permit in each phase of construction as follows:

CHART A

Phase 1	Phase 2	Phase 3
1-240 dwelling units or 1-154,000 square feet	241-480 dwelling units	481-720 dwelling units
TWO MILLION DOLLARS (\$2,000,000)	TWO MILLION DOLLARS (\$2,000,000)	TWO MILLION DOLLARS (\$2,000,000)

c. Grading/Geology:

- i. A grading permit is required prior to the issuance of a Public Works Clearance.
- ii. All on-site storm drainage conveyance facilities and earth retaining structures 4' foot in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the 2010 California Plumbing Code or submit a stamped and signed alternate engineered design for Public Works discretionary approval and should be designed to convey a 10 year storm event.
- iii. If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.
- iv. Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.
- v. The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.

- d. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures, source controls and numerically-sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharges.
 - i. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
 - ii. A post construction Final Report is required by the Director of Public Works from a Civil Engineer retained by the owner to observe the installation of the BMPs and stating that all post construction storm water pollution control BMPs have been installed as indicated in the approved plans and all significant changes have been reviewed and approved in advance by the Department of Public Works.
- e. **Stormwater Peak Flow Control Measures:** The project is located in a Hydromodification Management (HM) area and will create and/or replace one acre or more of impervious surface. The project must comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14) which requires HM projects to demonstrate that post-project runoff does not exceed estimated pre-project runoff rates and durations.
 - i. The project's HM plan and sizing calculations have been reviewed and additional information is required per the Actions/Revisions section.
 - ii. Final inspection and maintenance information for the HM controls must be included on the final HM plans.
- f. **Flood: Zone D** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for Zone D.
- g. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
- h. **Assessments:** This project is located within the boundaries of Community Facilities District No. 6 (Great Oaks - Route 85), which sold bonds to fund the construction of the extension of Great Oaks Blvd. and numerous intersection improvements throughout the Edenvale Redevelopment area, west of U.S. Highway 101. The bonds are secured by the property and will mature in 2023. The maximum special tax has been set at \$20,000 per acre. Historically the city has only needed to collect approximately \$11,000 to \$12,500 per acre, although these amounts are likely to increase, as currently taxed land is dedicated to streets and parks which will no longer be taxable. Future year special taxes will be apportioned based on any new parcel configuration and will continue to be collected through the County property tax bills listed under Tax Code 939 "SAN JOSE-CFD #6" until the bonds mature.

This project is also located within the boundaries of Maintenance District 9 (Santa Teresa - Great Oaks), which maintains the enhanced street island landscaping on Santa Teresa Blvd., Great Oaks Blvd., San Ignacio Ave., and Cottle Rd. Benefitting properties within the district pay for the maintenance through annual assessments placed on the County property tax bills, which are adjusted annually by the Consumer Price Index. The 2014-15 assessment is calculated at approximately \$152 per acre minus any credits. The

assessment is based on acreage and proximity to the maintained areas. Future year assessments will be apportioned accordingly to reflect any new parcel configuration and will continue to be collected through the County property tax bills listed under Tax Code 931 "S J MAINT DIST #9".

The project proposes several non-standard public improvements such as a roundabout and a stormwater basin that will likely require an annexation into an existing district or the formation of a new special district. Costs for these and other elements proposed by the project are still being defined, but any annexation or new district proposal will be subject to a property owner's vote.

i. **Street Improvements:**

- i. Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
- ii. Install handicap ramps at Great Oaks Blvd. and Raleigh Rd. driveway locations.
- iii. Construct 150' min. northbound left-turn pocket along Great Oaks Blvd.

j. **Electrical:** Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.

47. **Revocation, Suspension, Modification.** This Planned Development Permit may be revoked, suspended or modified by the Planning Director, or by the Planning Commission on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:

- a. A violation of any conditions of the Planned Development Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
- b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
- c. The use as presently conducted creates a nuisance.

APPROVED and issued on this **15th day of July, 2015.**

Harry Freitas, Director
Planning, Building, and Code Enforcement

Deputy